IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.824 of 2003

Motiram Yawhwant Gaikwad ..Appellant

V/s

Shankar Krishna Hirave ..Respondent

Shri S.M.Raikar for Appellant

CORAM:S.R.SATHE,J.

DATED:7th October 2005

P.C.:-

1. Heard the learned Advocate for the Appellant.

2. Appellant plaintiff had filed a suit for recovery of price of hybrid jawar, alleged to have been removed by the defendant without plaintiff's consent on 3-2-1990. The trial Court held that the plaintiff has failed to prove that defendant has taken away the crop as alleged. He, therefore, dismissed the plaintiff's suit and directed the plaintiff to pay compensatory cost of Rs.500/- to the defendant.

3. Being aggrieved by the said order plaintiff filed first appeal. The first Appellate Court partly allowed

the appeal and confirmed the order of dismissal of the suit, however, set aside the order of imposing compensatory cost. The said order is now challenged in the present second appeal.

4. There is concurrent finding of fact that plaintiff has failed to prove that the defendant removed the crop from the plaintiff's land as alleged. There is nothing to indicate that the said finding is perverse or that the same is not borne out from the evidence on record. There is no error in the finding recorded by the first appellate court. No substantial question of law involved in the matter. Hence the appeal is dismissed in limine.

(S.R.SATHE,J.)